LAW AND RESPECT FOR ENVIRONMENTAL RIGHTS IN NIGERIA: INTERROGATING THE CLIMATE CHANGE ACT 2021.

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ABSTRACT

Respect for human rights and good governance is one of the indices of a modern and democratic State. Protection of human rights to a safe and healthy environment is a covenant or duty of government towards its citizens. One of the global environmental challenges affecting the world today is climate variability which is caused by the presence of greenhouse gases in the atmosphere, burning of fossil fuel, deforestation, dumping waste in landfills, agricultural practices and poor family planning, amongst other things. The negative impacts of climate change include excessive flooding, impaired drinking water, damaged flora and fauna, food insecurity and high infant and maternal mortality rate in some of the affected communities. In order to address the far reaching negative impacts of climate change on man and the entire ecosystem in Nigeria, the National Assembly in 2021, enacted the Climate Change Act which provides a framework for mainstreaming climate change actions, a system of carbon budgeting and the establishment of the National Council on Climate Change. This article interrogated the Climate Change Act 2021 towards attaining environmental rights protection in Nigeria. Adopting the doctrinal research methodology, it found that the Act made spirited attempts to provide mechanisms for the protection of the right to a clean and safe environment in the face of oil exploration. It recommended amongst others that section 17 of the Act which empowers the Council to borrow money should be amended to peg the maximum borrowing benchmark to #1,000,000.00 (One Million Naira) per annum.

KEYWORDS: ***Human Rights, Environment, Climate Change.***

INTRODUCTION

The devastating effects of human interface with the environment have given birth to the concept of ' ecocide.' Ecocide is an unlawful or wanton act committed with knowledge that there is a substantial likelihood of severe and either widespread or long term damage to the environment being caused by those acts.[1] Emission of greenhouse gases is an offshoot of industrialization which has trails of environmental doom on the people. Climate change is an existential threat to human and planetary ecosystem.[2] The entire ecosystem is destroyed leaving man to live on a contaminated and polluted environment which threatens his life,

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[1] ' Independent Expert Panel for the Legal Definition of Ecocide, June 2021-Stop Ecocide International' <stopecocide.earth> accessed 12th January 2023.

[2] D. Tindall amd others, ' COP27 Failed. So Why Continue With These UN Climate Summits?' (November 2022)- The Conversation <theconversation.com/cop27> accessed 20 January 2023.

safety and health. Human-induced climate change is causing dangerous and widespread disruption in nature and affecting the lives of billions of people around the world despite efforts to reduce the risks. People and ecosystem least able to cope, like Nigeria, are being hardest hit.[3]

There are fears about the consequences of inaction at global, regional or national levels. It shows that climate change is a grave and mounting threat to our wellbeing and a healthy planet. Agriculture, food production, food security and health (increased malnutrition as well as increased water and vector-borne illnesses), energy safety and migration will all be impacted by the rise in temperature.[4] Most challenging is that the highly industrialized countries up North that create the most of emissions are not necessarily the same countries facing the most severe consequences of climate change. The up North with the highest carbon dioxide polluters of China, United States of America, India and Russia contribute more to climate variability than the less industrialized countries. In fact, China is responsible for approximately 30 percent of the world' s emissions while United State of America is responsible for 14 percent of the world' s emissions. This shows that global emission rates as well as progress on adaptation are uneven.

The question then is whether or not the widespread damage, harm and destruction of the ecosystem can be brought to an end? To avoid mounting loss of life, biodiversity and infrastructure, ambitious and accelerated action is required to adapt to climate change. Nigeria as a nation has taken legislative measures to reducing the emission of greenhouse gases and to mitigate the negative effects of climate change. This direct response is the enactment of the Climate Change Act 2021. This article therefore interrogates the provisions of the Climate Change Act to ascertain the extent to which it tends to protect the right to a safe, healthy and satisfactory environment in Nigeria.

CONCEPT OF CLIMATE CHANGE

Climate change, as a concept, was adopted in 1966 following a proposal made by the World Meteorological Organisation to encompass all forms of climatic variability on time-scales

[3] *Intergovernmental Panel on Climate Change Report*, 28 February 2022 <ipcc.ch/2022/02/28/pr-wgii-ar6/> accessed 20 January 2023.

[4] M. Schaeffer and others, *Africa Adaptation Gap Technical Report: Climate Change Impacts, Adaptation Challenges and Costs for Africa,* (2013 UNEP) 4-10. accessed 12 January 2023.

longer than ten years regardless of the cause.[5] This coinage came upon the realization that human activities, if not checked, can drastically alter the climate to reflect an anthropogenic cause.[6]

Climate change means a significant variation of the weather conditions like the conditions becoming warmer, wetter, or drier over several decades or more.[7] It is a global modification of the climate over a period of time – from decades to millions of years.[8] Statutorily, climate change is the alteration of the climate resulting from direct or indirect human actions or activities that alter the configuration of the global atmosphere in addition to the usual climate changeability observed over comparable periods of time or a general weather condition of a place over many years.[9] It is the variation in the statistical distribution of weather over periods that range from decades to millions of years in a specific location or across the earth.[10] It is an alteration in the atmosphere temperature occasioned by greenhouse gases that are accumulating on earth' s atmosphere due to human activities such as gas flaring, burning of fossil fuel, deforestation among others.[11]

In Nigeria, the Climate Change Act[12] defines the concept to mean a change of climate, which is attributed directly or indirectly to human activity and natural climate variability that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over a comparable time period.[13] Though there is no consensus on the duration to be compared, all the authorities agreed that such statistical calculation of the variation must be over a long period of time.

Such alteration in the atmosphere is mainly caused by the emission of green house gases into the atmosphere. Green house gases refer to constituents of the atmosphere that contribute to

[5] B. Jessup and K. Rubenstein (eds), *Environmental Discourses in Public and International Law* (Cambridge: Cambridge University Press 2013) 266.
[6] M. Hulme, ' Concept of Climate Change' in W. Blackwell (ed), ' The International Encyclopedia of Geography' (2016) *Association of American Geographers*, 15.
[7] M. Denchak, ' Climate Change: What We Need to Know' <www.nrdc.org> accessed 23 January 2023.
[8] ' Solar Impulse Solution, Climate Change: How to Stop Climate Change' <www.solarimpulse.com> accessed 23 January 2023.
[9] United Nations Framework Convention on Climate Change 1992, art. 1(2).
[10] O. J. Olujobi, *Nigerian Pteroleum, Energy and Gas Resources Law : Legal Theories, Cases and Practice* (Princeton & Associate Publishing Co. Ltd. 2022) 226.
[11] T. O. Jolaosho and O. J. Olujobi, ' Developing a Market-Based Approach to Gas-Flaring Regulation in Nigeria and Experiences From Norway and Canada' (2021) *Oil, Gas and Energy Law Intelligence* <www.ogel.org>
accessed 15 September 2023
[12] Climate Change Act 2021.
[13] *Ibid.*

Greenhouse effects[14] and include carbon dioxide,[15] methane,[16] nitrous oxide,[17] hydro fluorocarbons,[18] per fluorocarbons,[19] sulphur hexafluoride,[20] and indirect greenhouse gases.[21]

The effects of climate change are serious. It negatively affects farming, animals, sea levels, cities and people' s health.[22] According to Olujobi, rising temperatures, extreme weather events, severity of floods, droughts, heatwaves, increased wildfires, storms and a rise in sea level are some of the effects of climate change.[23] Others are ill-health, loss of biodiversity, and dislocation of many inhabitants of the affected areas.

KEY BACKGROUND TO THE NIGERIAN CLIMATE CHANGE ACT 2021

Prior to the enactment of the Climate Change Act, there was no direct legal framework on climate change in Nigeria. For instance, the 1999 Constitution imposes a duty on government and its agencies to protect and improve the environment and safeguard the water, air, land, forest and wildlife of Nigeria.[24] This is seen as the environmental objective. However, as important as this objective appears, section 6(6)(c) seems to have made the right to a clean, safe and healthy environment non-justiciable in Nigeria. Nonetheless, Section 6(6)(c) also seems to have created a leeway for the enforcement of Chapter II of the Constitution when it provides that ' except as provided by this Constitution.' [25]

The African Charter on Human and Peoples' Rights[26] tends to have given legal teeth to the provision of Chapter II particularly, section 20 which provides for the environmental objective. Where a Charter or any other international instrument provides for same rights as contained under Chapter II, one can bring an action under those instruments provided the provisions of such instruments are *mutatis mutandis* with those objectives. Accordingly, the

[14] (n 12), s. 35.
[15] *Ibid*., s. 35(a).
[16] *Ibid*., s. 35(b).
[17] *Ibid*., s. 35(c).
[18] *Ibid*., s. 35(d).
[19] *Ibid*., s. 35(e).
[20] *Ibid*., s. 35(f).
[21] *Ibid*., s. 35(g).
[22] S. R. Prem, ' Climate Change-Cause, Effect and Management: A Review' <http.researchgate.net/publication/373522832> assessed 15th September, 2023.
[23] (n 10), 226.
[24] CFRN 1999 (as amended) Cap C23 Laws of the Federal Republic of Nigeria 2004, s 20.
[25] *FRN v Anache* 3PLR/2004/44.
[26] African Charter on Human and Peoples' Rights 1981 (Enforcement and Ratification) Act Cap A9 Laws of the Federation of Nigeria 2004.

ACHPRs, art 24 provides that everyone shall have the right to a satisfactory environment favourable to their development.

Premised upon the scientific evidence that the earth is warming and climates are changing with serious and potentially damaging consequences, the Federal Ministry of Environment produced the Nigerian Climate Change Policy Response and Strategy.[27] The aim of this Policy is to promote low-carbon emissions and to combat efficiently the impacts of climate change such as extreme weather events, food insecurity among others. This targets low-carbon, sustainable economic development and building a climate resilient society.[28] While this step was applauded, it was seen as a mere policy that guides the actions of government without a direct legislative force to compel compliance and implementation towards achieving intended outcome. At the Conference of Parties (COP 26),[29] a deadline was issued for countries to make good on the promises to submit their Nationally Determined Contributions (NDCs). These are pledges made by countries to keep to global temperature level at 1.5 degrees through a range of deliberate steps including but not limited to a move away from fossil fuels to sustainable renewable energy sources, affordable measures and climate dedicated financing.[30] To fulfill its obligations under various international agreements it has subscribed to, the Nigerian Climate Change Act[31] was enacted.

The Act sets in motion certain environmental, political, social and economic measures. The primary aim of the Act is to provide a framework for mainstreaming climate change actions, provide for a system of carbon budgeting and the establishment of the National Council on Climate Change.[32] It equally mandates the Ministry of Environment to set among others, a carbon budget, keeping average increase to 2.C above pre industrial levels.[33] Nigeria' s long-term vision demonstrates its commitment to Paris Agreement Implementation. The Federal Government has said Nigeria' s 2050 long term low emission vision document is a demonstration of the nation' s commitment to play a leading role in the implementation of the Paris agreement. This was part of the pledge made by the Nigerian

[27] Federal Ministry of Environment , Department of Climate Change, 'National Climate Change Policy for Nigeria 2021-2030' <https://climatechange.gov.ng/wpcontent/uploads/2021/08/nccp_Nigeria_Revised _2_June-2021.pgf> accessed 13 August 2023.
[28] (n 10), 237.
[29] United Nations Climate Change Conference called Conference of Parties (COP 26) Held at the SEC Centre in Glasgow, Scotland, United Kingdom from 31 October to 13 November 2021.
[30] Conference of Parties (COP) was introduced by the United Nations Framework Convention on Climate Change (n 9), art. 7, 21.
[31] (n 12).
[32] *Ibid.*
[33] IUCN. A Review of Nigeria' s 2021 Climate Change Act: Potential for Increased Climate Litigation. <https//www.iucn.org> accessed 16/01/2023.

president at the Conference on Climate Change (COP26).[34] This, among others, shows that Nigeria is committed to combating global climate change.

GLOBAL MEASURES AT ADDRESSING CLIMATE CHANGE

The mustard seed for addressing the effects of climate change was the International[35] United Nations Framework Convention on Climate change[36] as held in 1992 and was ratified by 197 countries including the United States of America. UNFCCC is the primary framework for international climate change cooperation and its main objective was to stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic-induced interference with the climate system.[37] The Convention laid emphasizes on the intergenerational principle,[38] common but differentiated principle,[39] and precautionary principle.[40] Others are sustainable development[41] and cooperation among states.[42] The Convention equally established the Conference of the Parties[43] as the supreme body for the regular review of climate actions, examine the obligations of the parties, promote information sharing, facilitate cooperation among parties, adopt and consider reports and make necessary recommendations towards the implementation of the Convention.[44] Recently, the COP held the COP27. Nonetheless, the Convention appears not to have achieved its tall objectives. This Convention was not regarded as a legally binding emission reduction target for countries. This raised the problem of enforcement.

Following the need for enforcement, the Kyoto Protocol was adopted in 1997 and came into force in 2005. It was the first internationally legally binding treaty which extends the 1992 Convention that commits State parties, especially developed countries to reduce greenhouse gases emissions by an average of 5 percent below 1990 levels based on the sacrificial consensus that global warming is occurring and caused by man-made carbon-dioxide emissions. It equally established a system to monitor countries' progress but the

[34] COP26 was held in Scotland from October 31 to November 13 2021.
[35] ' International Coorperation on Climate Change' <https://www.dfat.gov.au.international-cooperation-on-climate-change> accessed 12 January 2023.
[36] (n 9).
[37] *Ibid*, art 4; L. Maizland, ' Global Climate Agreements: Successes and Failures' <https://www.cfr.org> accessed 14 January 23.
[38] (n 12), art. 3 (1).
[39] *Ibid*, art. 3 (1).
[40] *Ibid*, art. 3 (3).
[41] *Ibid*, art. 3 (4).
[42] *Ibid*., art. 3 (5).
[43] *Ibid*, art. 7(1).
[44] *Ibid*, art. 7(2).

treaty did not compel nations such as China and India who are major emitters to take action.[45] Emission Trading Schemes (ETS), Clean Development Mechanisms (CDM) and Joint Implementation (JI) are some of the flexible mechanisms set out under the protocol for climate change mitigation. While these measures are applauded, it appears that States must first make adjustments at national level before attempting to buy their way out of their obligations under the Convention. In other words, industralised nations must reduce their greenhouse gases emission significantly through domestic laws and policies.

The Paris Agreement is the first binding global climate change agreement, adopted at the Paris Conference (COP21) in December 2016. It sets out a framework of keeping the increase in global average temperature to well below 2C above pre industrial levels and pursuing further efforts to limit it to 1.5◦C and greater generation of fund for implementation among others. As a contribution to the objectives of the agreement, counties have submitted comprehensive National Climate Action Plans known as Nationally Determined Contributions (NDCs). Each State party can define its own commitment towards the reduction of emissions in terms of amount and means under respective national circumstances. Hence Countries set their own targets but there are no enforcement mechanisms to ensure they meet them.[46] There was also an international effort called the Climate Change Conference held in Scotland 2021 and known as the Glasgow Climate Pact aimed at staving off dangerous climate change.[47] The Pact reaffirms the Paris Agreement temperature goal of holding the increase in the global average temperature to well below 2 degree above pre-industrial levels amongst others. It recognises that limiting global warming to 1.5 degree requires rapid, deep and sustained reductions in global greenhouse gas emissions, including reducing global carbon dioxide emissions by 45 per cent by 2030 relative to the 2010 level and to net zero around midcentury, as well as deep reductions in other greenhouse gases. However, achieving the target is not assured, as with existing pledges the emissions in the year 2030 will be 14 percent higher than in 2010.[48] The difference between this agreement and previous COP agreements is that coal was mentioned as a driver, or major cause of climate change, making the Glasgow Climate Pact the first ever climate deal to explicitly plan to reduce unabated coal power.

[45] (n 35).
[46] *Ibid.*
[47] D. Angela, ' COP26 Climate Agreement Reached in Glasgow with Unprecedented Reference to Fossil Fuel' <CNNarchirved> accessed 13 November 2021.
[48] *Ibid.*

RELATIONSHIP BETWEEN THE CLIMATE CHANGE ACT 2021 AND ITS ENVIRONMENTAL RIGHT PROTECTION POTENTIALS.

Man has a fundamental right to freedom, equality and adequate conditions of life in an environment of quality that permits a life of dignity and well being.[49] This right to life is a necessary part of human existence.[50] *Hitherto*, the right to life was perceived the most fundamental right. However, the fulfillment of the most fundamental human needs which guarantee life is dependent on many elements of the environment; air to breath, water to drink, food to eat, and shelter for protection and the quality of environment generally.[51] The security and welfare of the citizens shall be the primary purpose of the state through government.[52] The right to a clean, safe, and healthy environment is one of the rights that need to be protected as a result of the pivotal roles the environment plays in the society.

Nigeria is a party to all the climate change treaties. It has equally ratified same and today has enacted its own climate law; Nigeria Climate change Act.[53] The Act is a strong step in the protection of environmental rights especially because it demonstrates the readiness of Nigeria to live up to its expectation in actualizing its commitment to the Paris Agreement, Nationally Determined Contributions (NDCs), Kyoto Protocol, the United Nations Framework Convention on Climate Change, UN SDGs and other standards and guidelines on climate change adaptation and mitigation.

One of the objectives of the Act is to provide a framework for achieving low greenhouse gas emissions including green growth and sustainable economic development by setting a target for year 2050-2070 for the attainment of a net-zero GHG emission, in line with Nigeria' s international climate change obligations.[54] It equally aimed at implementing mitigating measures that promote low carbon economy and sustainable livelihood.[55]

Specifically, the Act provides a framework formational climate action by mandating the Ministry of Environment, in consultation with the Federal Ministry responsible for National Planning to set among others, a pilot carbon budget for Nigeria, keeping average increase in global temperature to 2 degree and pursue efforts to limit the temperature increase

[49] United Nation Conference on Human Environment otherwise Stockholm Declaration, 1972, principle 1.
[50] S. C. Dike, ' Nigeria' s Petroleum Industry, International Oil Companies, and Human Rights Concerns: Need for Operational Due Diligence' (2017)(1) *African Journal of International Energy and Environmental Law, 27.* .
[51] L. Atsegbua and other, *Environmental law in Nigeria: Theory and Practice* (Ambik Press, 2010) 173.
[52]CFRN, 1999 (n 17), s. 14(2)(b).
[53] (n 12).
[54] *Ibid*, s 1(f).
[55] *Ibid*, s 1(h).

to 1.5 degree above pre industrial levels.[56] The Secretariat and concerned MDAs are mandated under the Act to formulate an Action Plan in every five-year cycle[57] which shall serve as a basis for identifying the activities aimed at ensuring that the national emission profile is consistent with the carbon budget goals[58] and establishing national goals, objectives and priorities on climate adaptation and mitigation against climate change.[59] Nigeria' s long-term vision demonstrates its commitment to Clean Development Mechanism and the Paris Agreement Implementation. It is two years after the Act was enacted, there appears no evidence of MDAs formulating Action Plan. To succeed, the National Climate Change Council must rise to its responsibility of monitoring and ensuring compliance with the letters of the Act.

The Climate Change Council is equally tasked to promote and adopt nature-based solutions to reducing GHG emissions and mitigating climate change issues in Nigeria.[60] The formation of a registry with sub-regional nodes for capturing ' Reducing Emissions from Deforestation and Forest Degradation' activities in Nigeria is another giant step towards achieving CDM.[61] This approach captures the role of conservation, sustainable management of forest and enhancement of forest carbon stocks.[62] The establishment of a Climate Change Fund for funding innovative climate change mitigation and adaptation projects[63] is another policy thrust through which the Act showcases its commitment towards achieving CDM. The letters of the Act tend to encourage bogus allocations of the Climate Change Fund for administrative purposes and remuneration of staff rather than stimulating innovative projects that will guarantee climate change mitigation and adaptation.

One of the achievements of the Act towards the protection of the environment against the disastrous effects of climate change is the establishment of a National Council on Climate Change[64] with the powers to make policies and decisions on matters concerning climate change in Nigeria.[65] The Council has crucial responsibilities among which are; to coordinate the implementation of sectoral targets and guidelines for the regulation of GHG emissions

[56] (n 12), s 19 (1); IUCN. A Review of Nigeria' s 2021 Climate Change Act : Potential For Increased Climate Litigation' <https//www/iucn,org> accessed 17 January 2023.
[57] (n 12), s. 20(1).
[58] *Ibid*, s. 20(4)(a)(i).
[59] *Ibid*, s. 20(4)(a)(ii)(iii).
[60] *Ibid*, s 27.
[61] *Ibid*, s. 28(1).
[62] *Ibid*, s. 28(2).
[63] *Ibid*, s. 15(2)(f).
[64] (n 12), s. 3(1).
[65] *Ibid*, s. 3(1).

and other anthropogenic causes of climate change;[66] approve and oversee the implementation of the Action Plan;[67] administer the Climate Change Funds;[68] ensure the mainstreaming of climate change into the national development plans and programs.[69] Others are to formulate policies and programs on climate change;[70] formulate guidelines for determining vulnerability to climate change impact and adaptation assessment;[71] recommend legislative, policy, appropriation, for climate change adaptation and mitigation;[72] mobilize financial resources to support climate change actions;[73] collaborate with the Federal Inland Revenue Service to develop a mechanism for carbon tax in Nigeria.[74] It is argued that though the introduction of carbon taxes as environmental tax on precise units of carbon used may discourage carbon emission through the utilisation of fossil-fuel-based energy sources and boost Federal Government revenue, big corporations and Multinational Companies may prefer to pay the carbon tax and continue to emit greenhouse gases. Incentives for technological innovation in a transition to renewable energy source appears a better option to decarbonise the planet.

The Council equally has the function of collaborating with the Federal Ministries of Environment and Trade to develop and implement a mechanism for Carbon Emission Trading;[75] review international agreements related to climate change towards ratification and compliance;[76] disseminate information on climate change laws, local vulnerability, risks and adaptation and mitigation measures;[77] and provide advice and recommendations on technical, scientific and legal matters on climate change.[78] Section 4(j) specifically shows the commitment of the Act for Nigeria to achieving the Emission Trading Scheme (ETS) under the Kyoto Protocol. Only a transparent, well-funded, accountable and independent institution can achieve these tall objectives. The Federal Government must stop all forms of interference with the operations of the Council. However, this may appear impossible as the appointing powers rest in the President and he who pays the piper dictates the tune.

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[66] (n12) s. 4(a).
[67] *Ibid*, s. 4(b).
[68] *Ibid*, s. 4(c).
[69] *Ibid*, s. 4(d).
[70] *Ibid*, s. 4(e).
[71] *Ibid*, s. 4(f).
[72] *Ibid*, s. 4(g).
[73] *Ibid*, s. 4(h).
[74] *Ibid*, s. 4(i).
[75] (n 12), s. 4(j).
[76] *Ibid*, s. 4(k).
[77] *Ibid*, s. 4(l).
[78] *Ibid*, s. 4(m).

The incorporation of the instrumentality of partnership in the Act equally expresses the desire of the Act to achieve joint implementation with Nigeria. There is need for the Council to partner with the Ministry of Education, Civil Society Organisations (CSOs), women, youths and others to monitor plans, programmes, projects, and engage in climate advocacy.[79] The need to achieve public participation and engagement is further heightened when the Act provides for climate change education.[80] By this provision, the Secretariat is tasked to advise the MDAs responsible for regulating educational curriculum in Nigeria on the integration of climate change into the various disciplines and subjects across all educational levels including primary, secondary and tertiary education. Climate change education can be achieved through partnerships with the relevant MDAs and approval and sponsorship of related scientific researches and similar projects and programmes towards climate change mitigation and adaptation. The obligation of furnishing data and such other information related to Nigeria' s drive for climate change mitigation and adaptation shows the intention of the Act to protect the environment against abuse. There is a clear doubt as to the willingness of the Federal Government to achieve low carbon action plans through the MDAs when the revenue of the Federal Government depends on the oil and gas industry through the burning of fossil fuel.

The establishment of the Climate Change Fund under section 15(1) of the Act is a highly commendable provision geared towards environmental protection in Nigeria. Financial and non-financial measures of working together concerning all collaborative arrangements is key for joint implementation. However, under the application of the funds, priority is given to the administration of the Council rather than climate change mitigation and adaptation. Specifically, the Act states that the Fund shall be applied on the cost of administration of the Council and offices established under the Council;[81] payment of emoluments; allowances and benefits of members of the Council, reimbursing members of the Council or any committee set up by it[82] and other expenses and payment of salaries, other remunerations and allowances and other retirement benefits payable to the staff of the Council[83] and development and maintenance of any properties of the Council.[84] This article submits that the Climate Change Funds should not be applied in such a way that will compromise the enforcement and

[79] (n 12), s. 25(1)(2).
[80] *Ibid*, s. 26(1)(2)
[81] (n 12), s. 15(2)(a).
[82] *Ibid*. s. 15(2)(b).
[83] *Ibid*, s. 15(2)(c).
[84] *Ibid*, s. 15(2)(d).

implementation of the objectives of the Act, particularly, conducting assessment of climate change impacts, efforts towards transiting to clean energy and sustaining a reduction in GHG emissions.

To ensure accountability and compel compliance with the provisions of this law, the Act makes it an offence for any person, private or public entity to act in any manner that negatively affects efforts towards mitigation and adaptation measures under it.[85] The Council is empowered to determine the penalty for anyone who commits such offence.[86] It is the submission of this article that such discretion given to the Council to determine penalties for offenders of the Act may breed corruption and encourage fragrant disobedience to the provisions of the Act. This fear is imminent especially as the Council may not provide stringent penal measures for offenders. And where this is the case, there will be no deterrence to would-be offenders.

In order to further protect the environmental rights of citizens, Part IV of the of the Act places climate change obligations on the MDAs, public and private entities to ensure the integration of climate change activities into their core mandates. Going further, all budgets submitted by MDAs must be properly vetted and costed for climate change considerations with adequate allocations in their annual budget[87] and adhere to annual carbon emission reduction targets in line with Action Plan and carbon budget. It is therefore an offence for any MDA and its principal officers who fail to meet its annual carbon emission reduction targets. Such offender will be sanctioned and where appropriate, fined.[88] The same position is equally applicable to all public entities and private entities with employees numbering 50 and above.[89] This is to ensure that there is a collective effort at reducing emission of GHGs thereby guaranteeing a safe and clean environment.

CONCLUSION

So far, the enactment of the Climate Change Act by the Federal Government and Nigeria' s resolve of 2050 long term low emission vision document are clear demonstrations of the nation' s commitment to play a leading role in the implementation of key international climate change principles of Clean Development Mechanism, Emission Trading Scheme and Joint Implementation. It is a giant step towards the protection of the right to a safe, clean and

[85] (n 12), s. 34(1).
[86] *Ibid*.
[87] *Ibid*, s. 22(3).
[88] *Ibid*, s. 22 (5).
[89] *Ibid*, s. 24.

healthy environment by combating global climate change through measures to reduce GHG emission. However, to achieve this objective, Nigeria needs to adopt a regional approach by cooperating with other jurisdictions within the continent while strengthening her institutions to be independent and robust enough to implement extant laws. It is concluded that the application of the Climate Change Fund towards the administration of the Council and maintenance of its properties should not compromise the enforcement and implementation functions. Finally, though the Act empowers the Council to borrow money from financial organisations or other institutions for the purpose of executing its statutory mandates,[90] it appears that the Act neglects or fails to stipulate the maximum amount or limit the Council is mandated to borrow annually. This failure on the part of the framers of the Act has the potential of breeding corruption, opening doors to all kinds of frivolous and bogus borrowing spree by the Council and appears to negate the principles of checks and accountability.

RECOMMENDATIONS

In order to further protect the environment, this chapter makes the following recommendations:

1. Section 34(1) of the Act which provides that the Council may determine the penalty to be suffered by any person, or private or public entity who contravene the Act should be amended so that stringent and severe penalties be clearly spelt out by the Act. This way, such stringent penalties will serve as deterrent to would-be offenders and discourage any fragrant disobedience to the provisions of the Act on the altar of lesser penalties yet to be determined by Council.

2. The provision of section 18 of the Act which empowers the Council to accept gifts of land, money or other property as may be specified by the person or organisation making the gifts should be amended to include that the Council should not accept gifts that will compromise its enforcement and implementation functions.

3. For there to be an effective management by the Council, the Federal Government must ensure zero interference with the mandates and functions of the Council.

[90] (n 12), s. 17.

4. There is equally need for a strong political will on the part of Federal Government to fund the activities and functions of the Council and Secretariat towards optimal performance in the fight to attain reduction in the emission of GHGs.

5. Section 17 of the Act which empowers the Council to borrow money from financial organisations or other institutions for the purpose of executing its mandate should be amended to peg the maximum amount to be borrowed per annum to #1,000,000.00 (One Million Naira Only). This amendment would close the doors against corrupt practices and all kinds of frivolous and bogus borrowing spree by the Council at the detriment of its mandates.

6. While strengthening Nigeria' s institutions to be independent and robust enough to implement the various treaties on climate change and the Climate Change Act, Nigeria needs to adopt a regional approach by cooperating with other jurisdictions within the continent to achieve climate justice. This is in line with the ' Together for Implementation' core theme of the Conference of Parties (COP 27) held at Sharm El-Sheikh, Egypt 2022 and the Joint Implementation principle of the Kyoto Protocol.

7. A transition to renewable energy source is recommended as a sure panacea to the environmental challenges posed by emission of greenhouse gases in Nigeria.